

# TA Consultants United

stay independent, but not alone

# 'WALKING THE TALK'

DRAFT

## ANNUAL REPORT

AUGUST 2011 - AUGUST 2012



**Contents:**

**A message from Henry**

'Walking the talk'??? .....4  
 ... with a postscript from Stephen .....4

**1. Introduction**

**2. Origins of TACU**

**3. Stakeholder status**

**4. Achievements**

SoE&A.....8  
 Insurance.....8  
 Security .....8  
 Experience versus educational/professional qualifications .....8  
 Previous country experience .....8  
 Bodyshops .....9

**5. Women experts and family issues**

**6. Legal issues**

**7. Outstanding issues and plans**

Code of professional practice .....13  
 Rating contractors .....13  
 Fee rate development information .....13  
 Other donors .....14  
 Engaging with the European Parliament .....14

**8. Membership issues**

Advisory Board.....15  
 Working groups.....15  
 Members.....15  
 Finally... ..16

## A message from Henry

### 'Walking the talk'???

No, we are not from the US, nor do we like to use slang for professional purposes. But in our case 'walking the talk' is the essence of our message and our performance in this first year of TACU.

Apart from 'objective results' at the negotiation table and for individual members as described in the next pages of our report, the real 'gold' of our efforts is twofold:

- We managed to identify the interests of consultants in our profession and to make them concrete;
- And we succeeded in giving voice to these interests in starting to build contacts and negotiations with 'the power' in our industry.

I don't know if you ever follow the professional groups in our industry on LinkedIn. To be honest, you haven't missed much if you didn't. Oh yes, of course, some discussions are interesting or have interesting elements. They can have broadly appreciated subjects. But the impact of these discussions is never more than that of a water wheel in the desert: it might go round but it never moves any water. Hot air, that's all! And at the end lots of frustration that nothing has changed.

Mind you, I am grateful for platforms like LinkedIn: without LinkedIn, TACU would have never been able to start. Next to this unique functionality the platform has its limitations: it is not an environment that stimulates concluding point of views and it does not help to move things to action... that is: without human intervention.

Can I share a personal observation with you, even though it is close to gossiping? I even think that many of the most active people in discussions on social media don't even want conclusions or action or results or change. They just want to continuously 'share their thoughts', synonym for complaining.

This is essentially where TACU makes a contrasting difference: we are not on earth for everlasting talks or discussions. We provide the human intervention. Our value is in translating experiences into a programme for change, promoting and protecting the interests of the people in our profession: consultants in technical assistance. Our mission is to bring these interests forward and to accomplish change, in the way 'we' want it. 'We' as in 'our members'. That's us, TACU.

In this first year we have set the framework for our future:

- We have a programme
- We have a structure
- We have an infrastructure for negotiations, individual services and internal communication
- We have set up channels for promoting our interests and cases
- And we are recognised by the industry as a stakeholder to take into account.

That is not bad for a first year, right?

This has been made possible, because a first group of just 150 colleagues were willing to engage in this adventure and paid the contribution. Thanks for your confidence; we plan to continue developing and improving. Help us to grow to the number of members TACU deserves.

### ... with a postscript from Stephen

Some of you may not be familiar with the expression "walk the talk". It originated in the US and has spread across the English-speaking world. The usual form goes: "He can talk the talk, but can he walk the walk?" That is, he may be great at talking apparently knowledgeably about something – but can he actually do something, or he is just a gasbag?

We think some of the people on LinkedIn who have recently called us "autocrats" "founders of an exclusive clique" and who compared us with fascists, etc cannot do anything but "talk the talk" (and not very nice talk either)!

## I. Introduction

Overall, this has been a successful first year for TACU, although there have been some disappointments and there are, of course, a great many challenges to be addressed in this coming year and after. In this report we highlight key achievements before reviewing our priorities for the coming year.

We are grateful to all of you for having shown your belief by joining TACU. There are not a great number of us yet (see last section for more on that!) so we think it right that all of you should consider yourselves as founding members.

We hope that TACU will keep growing in size and influence so that, in due course, to have been among the first to join will be like having a badge of honour!

We also want to express our appreciation for the generous support and encouragement a number of you have shown for TACU, by writing directly to us, by supporting us in a number of LinkedIn discussions and by encouraging your own friends and contacts to join.

We very much value this support, without which there would be little point in trying to develop TACU as a service to the global community of independent experts. Thank you!



Stephen Dewar (28 April 1947) is Irish and has degrees in economics from Trinity College Dublin. He has worked on consultancy assignments since 1978 in Africa, the Middle East, the Balkans, Russia and EU countries. Funding agencies have been EuropeAid, EDF, the World Bank, UNDP, Irish Bilateral Aid, various governments and private sector clients.

As well as working in consultancy, he has been an academic teaching management and business strategy to executive MBA students, the senior economist in a large state agency in Ireland, a farmer, a tourism entrepreneur, a writer (fiction and non-fiction), a film and television actor, a journalist, and briefly the chief executive of the third largest big game hunting company in Africa.

Over the years he saw how well protected employees are in large organisations compared with independent experts, who are frequently treated illegally, unethically and unfairly, and who normally have no means of obtaining justice.

Stephen is married to Irina and lives in Kaliningrad.

Henry Leerentveld (25 September 1955) has a university degree in Human Resources Management and Labour Relations and a post-doc in Executive Management. Henry started his career in the biggest Dutch trade union, where he obtained a position as National Secretary.

After this he became Chairman of the Management Board of the Dutch career guidance services in their process of privatization. Before entering into international consultancy Henry fulfilled several interim management and crisis management positions in Boer & Croon Executive Management, the number one Dutch interim management provider.

Henry is in international consultancy for nine years now and has worked in Eastern and South Eastern Europe, the Middle East, South Asia and East Africa. His projects were financed by the EU, UNDP and ILO. Labour market, employment and human resources development are the subjects of his expertise.

Henry is single, a proud father of two beautiful smart daughters and has a permanent residence in The Hague.

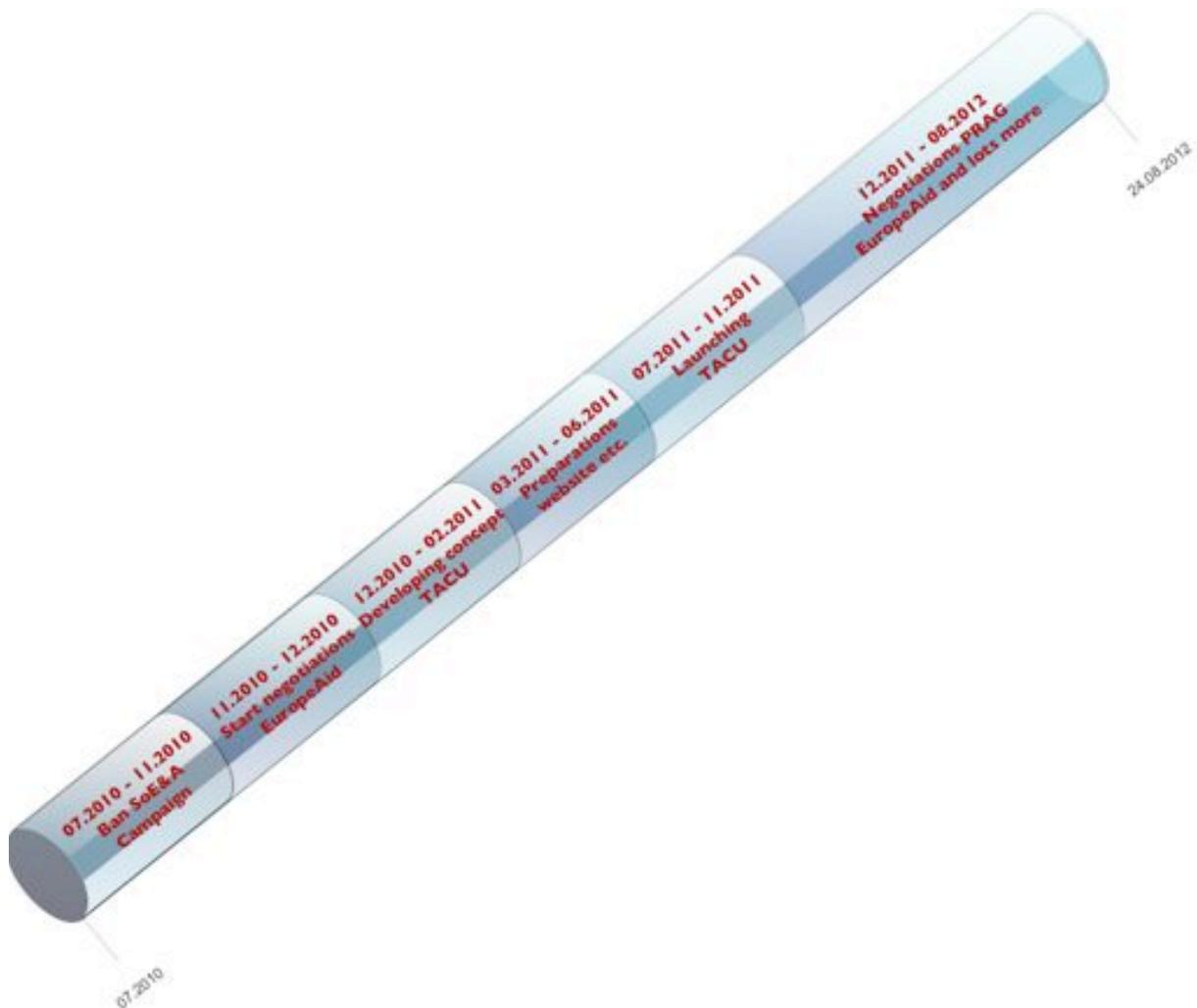


## 2. Origins of TACU

TACU was registered with the Dutch Chamber of Commerce in The Hague as a not-for-profit organisation on 19th August 2011. The Articles were already sent to you in our previous email.

In July 2010 Henry (Dutch) started a discussion on LinkedIn about the EU’s statement of exclusivity and availability (SOE&A) and stated that he wanted to see if action could be taken to get rid of it. Stephen (Irish) agreed to work with Henry on this and we were joined by David Hepburn (British), Michael Gericke (German), Bill Fraser (British), Coert van der Burgh (Dutch) and Tamer Kirac (Turkish). We started an on-line petition to “Ban the SOE&A”, which attracted 700 signatories from 66 countries.

This was a single-issue campaign, but so many experts wrote about other complaints right through our industry that we realized there was a need to set up an organisation to protect and promote the interests of experts generally, and not just focus on the SOE&A.



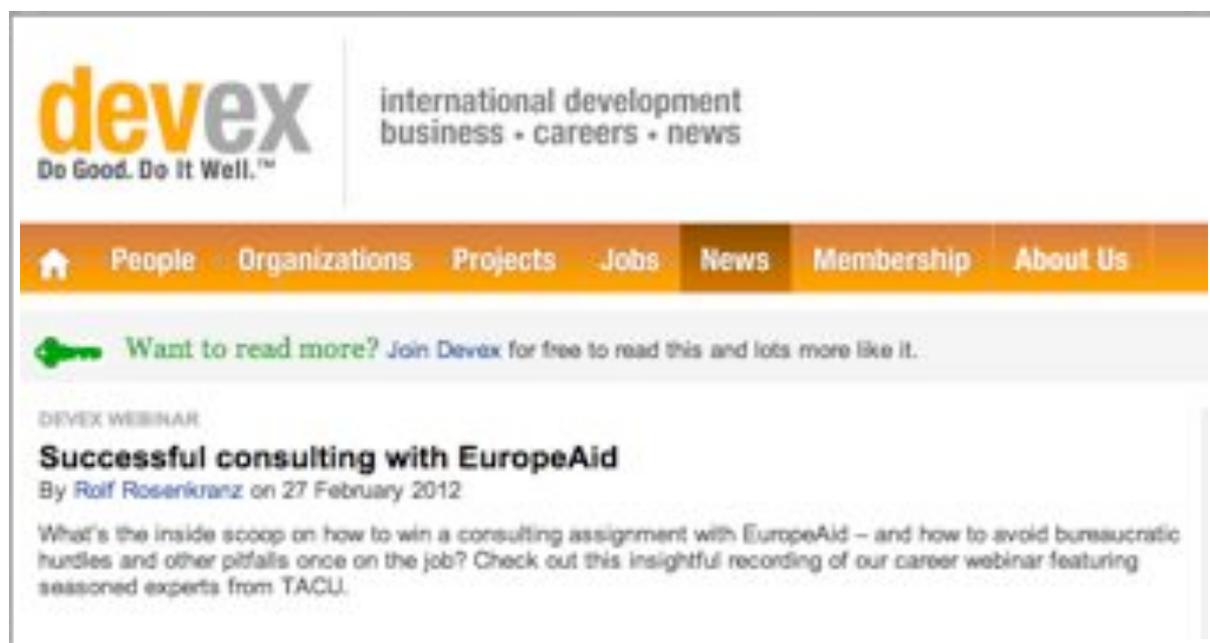
### 3. Stakeholder status

One of the most significant advances has been the recognition by EuropeAid that we are an official stakeholder in their consultations regarding the European Commission's development cooperation programs, requiring them to seek our comments and inputs into all new policy and regulatory measures they are considering introducing.

Previously, experts were totally excluded from such processes, despite being the people who actually implement the projects. We believe that our influence will grow as time passes and our membership grows. For now, this is a very important step forward.

In the past year we were also able to establish the first contacts with other donors. Initially this was directed to a single subject: safety provisions for experts. GIZ and the UN proved to be very cooperative and open to suggestions in this respect.

Being recognised by the industry also relates to building contacts with contractors and dedicated media. In this year we have set up initial contacts with contractor organisations such as FEACO and EFCA. We also held discussions with a few individual respectable contractors and national contractor organisations.



An important event for the promotion of TACU and debating TACU services was our participation in a DEVEX webinar about us, which had a live audience of over 200 consultants.

## 4. Achievements

### SoE&A

Eventually we won a concession on the SOE&A. Experts may participate in several bids simultaneously, although not in competing bids for any one project. Previously, experts could participate in only one bid at all at a time.

While the new system has many drawbacks, we believe it is a significant step forward.

In the longer term we still plan to propose a tendering system that meets the Commission's main objective – to ensure that experts listed in bids will be the ones to do the work – while getting rid of the restrictive SOE&A. We did propose that tender evaluations should be based on the quality of the technical proposals and that the winning contractor would then have a short period to recruit the right experts.

This would eliminate the need for SOE&As, would eliminate the long periods while experts wait to see if they are on the winning bid, would lead to better teams (winning contractors could take their pick of all suitable experts), and greatly increase competition between contractors - hopefully making it harder for bodyshops to succeed.

However, the Commission rejected this proposal on the grounds that it would be contrary to basic legal principles required for tendering. This will however not stop us in our cause for a better and fairer system!

EuropeAid has also instructed its contracting authorities to increase the use of global price contracts (GPCs). These totally eliminate the need for SoE&As. However, we have yet to see whether a significant number of projects will now be tendered on this basis. We will monitor this.

In addition, EuropeAid has furthermore guaranteed to enforce the timetable for tender evaluations of FWC tenders which – if successful – should eliminate the practice of SoE&As having their validity extended far beyond the 14 days they are supposed to cover.

These are all useful steps forward. Nonetheless, we will continue to discuss this matter with the Commission to try to find a better, more acceptable solution.

### Insurance

From the beginning of next year, contractors must insure all experts fully, in accordance with the provisions of Article 13 of the General Conditions.

Furthermore, they will have to produce regular documentary evidence that they have done this. Until now many (read 'most') contractors have ignored this obligation with impunity.

Experts who have their own insurance are free to opt out of this, but must in turn show that they are covered.

### Security

In future, when working in danger zones, contractors must provide appropriate security measures to be funded from Incidental Expenditure (a fixed sum in service contract budgets). This has never been done before.

### Experience versus educational/professional qualifications

In future sufficient numbers of years of relevant experience (the number to be stated in the TOR) will be counted as equivalent to appropriate qualifications. That is, job specifications can no longer (except in exceptional circumstances, e.g. medical doctors) demand qualifications regardless of relevant experience.

### Previous country experience

No longer can TOR state that previous experience within the beneficiary country is "essential", although it can still be listed as "desirable".

## Bodyshops

We have helped to develop a consensus between ourselves, EuropeAid and reputable contractors that, with some exceptions, so-called bodyshops are parasites within the system and should be driven out of the industry. We are working with our partners to establish legal ways of doing this. For instance, there are a number of genuine recruitment firms that can provide a useful service for experts and contractors and we do not wish to see those who provide a genuine service discriminated against.

We have also persuaded the European Court of Auditors to add this issue to its own concerns regarding the best use of Commission funds in the development cooperation industry.

As the quality of our work and the industry as a whole is a vital subject, we should also mention that we have set up contacts with the Quality of Delivery Systems Department of EuropeAid. We plan to continue and expand these contacts as both the fight against bodyshops and the push for the added value of our work (including the role of contractors in it) are vital.

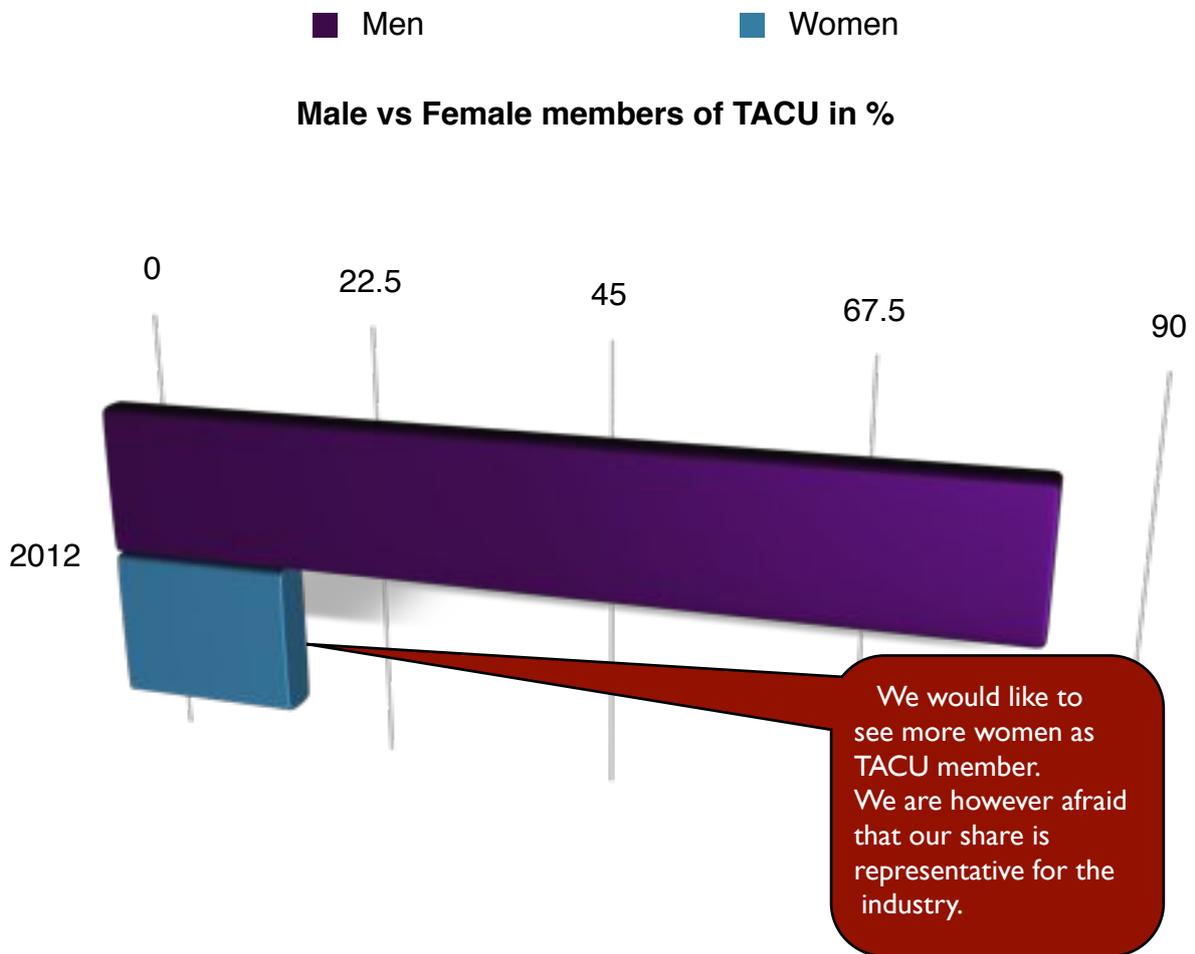
### 5. Women experts and family issues

Approximately 17 per cent of our paying members are women. We asked one of them, Gail Warrander, to write a report on whether EuropeAid’s procedures discriminate against women.

She consulted with other experts, mostly also women, and concluded that aspects of procedures are anti-family (especially when TOR impose unnecessarily long periods to be spent in-country when much of the work (e.g. drafting legislation) could be done better at home). In other words, although women, as mothers, are more affected, fathers are too.

We submitted this report to EuropeAid whose reaction was that some kinds of profession are basically non-family-friendly and technical assistance is one of those. We consider this unsatisfactory and will campaign for a better deal in this area in the future.

Staff of international agencies, including donors, make full provision for accompanying spouses and families to be relocated to duty stations and we believe similar provisions should be made for experts working on long-term assignments.



## 6. Legal issues

When we started TACU we decided that the first service we should provide to members would be free initial legal advice, since we are well aware that many experts get into disputes, typically (but not always) with contractors, and that normally they do not have the resources to take the contractors to court in the contractors' home countries, which is where the contracts usually specify disputes must be resolved.

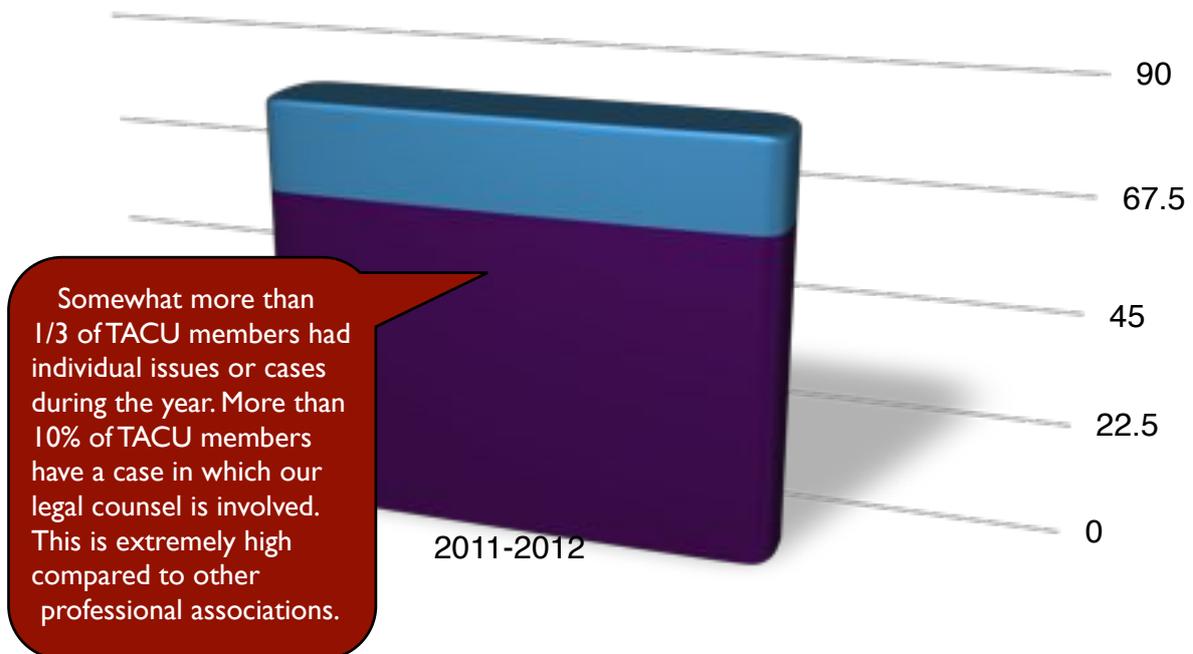
To date Joseph Dalby has assisted 18 experts in various disputes. In a few cases unpaid fees have been recovered; in others he has helped experts prepare cases to take to the European Ombudsman; and in a few more he has helped to prepare for court actions against contractors. Because we guarantee confidentiality over all such matters we cannot reveal full details (but see the next page for examples). What is clear, however, is that there is a huge demand for this service.

However, one of the issues that has arisen from these cases is that if one cannot get satisfaction dealing directly with the contractor, there is no alternative except to go straight to legal action, which is typically far beyond the resources of individual experts (expense, length of time involved, language problems, finding a foreign lawyer, etc).

For that reason, we have proposed to EuropeAid that all contracts with experts should provide for arbitration procedures in the event of a dispute that cannot be resolved directly by the parties involved. Typically this would be much quicker and cheaper. ([See our proposal](#)). We are waiting for EuropeAid's response and we will initiate negotiations soon.

■ Other individual support                      ■ Legal cases

TACU individual cases



**Examples of cases:**

- South African expert wrongly pressured to comply with original, but unexpired SoEA, when donor re-commenced tender. Correspondence prepared by TACU led to contractor conceding position.
- Swedish expert not paid for final invoice because donor wrongly rejected report and contractor refused to pay and refused to challenge rejection by the donor. On-going dispute. Expert considering complaint to the ombudsman.
- German expert not engaged as expert in tender having signed an SoEA and declined other opportunities. TACU advised on recovery of damages. Expert considering.
- Italian expert not paid substantial sum for alleged failure to supply deliverables when fault arose after expert's contract and contractor suffered cost overrun. Claim still at pre-litigation stage. TACU advising and assisting.
- Contractor's tender rejected on basis of wrong evaluation and rejection of expert's CV. TACU advised preparing case for submission to Ombudsman; expert considering whether to do this or not.
- Refusal of contractor to pay full contract sum to Polish expert on account of defects by contractor unrelated to work of expert, who put in well in excess of what was required. TACU advised complaint to the Commission and Ombudsman. Expert considering same.
- Late payment of fees and expenses by contractor to Dutch expert. TACU advised on rights and strategy for recovering interest, but advised expert that unfortunately value did not merit action.
- British expert wrongly found liable for loss suffered by contractor when unable to undertake project although the SoEA did not require exclusivity. Appeal pending with TACU assisting expert's court lawyer.
- Spanish expert 'sacked' when attempting to meet the terms of the Project ToR which were being undermined by Team Leader.
- Greek expert threatened with legal action for not honouring the SoEA when term had expired and expert had obtained work elsewhere. Contractor did not take action further after receipt of correspondence prepared by TACU.
- Non-payment of fees to Belgian expert. Fees paid after contractor received letter prepared by TACU.

## 7. Outstanding issues and plans

There were four submissions we made for the new PRAG, which were rejected:

- Payment of the full published per diems for service contracts;
- Business class travel for flights over six hours;
- Treating mobilisation/demobilization travel days as work days;
- Final payments to experts on FWC assignments should not be delayed until beneficiary/donor approval of the final report.

EuropeAid's argument was that these are issues solely between contractors and experts. We don't agree and will continue to lobby to have these matters incorporated in PRAG as requirements for contractors to include in their contracts with experts. However, we will also examine whether we can persuade contractors to accept our proposals.

This also raises the issue of whether we can – or should – develop a “model” contract for use by contractors and experts. It is important to be clear what we mean here. We do NOT mean that everybody would have to use identical contracts across the industry. Instead, we are thinking that TACU, with the advice and inputs of members obviously, would prepare a template covering a number of key issues, including the ones listed above, which experts would provide to contractors with the request that they be included in the contract for an assignment. Clearly this is not an easy matter. Experts will disagree over what should be included and what should not and there is, of course, the bigger problem about how we can persuade contractors to accept our proposals. However, with time and patience we believe that we should be able to make progress in this area and we will consult you for your views and inputs in the coming months. In our internal deliberations we also need to pay attention to the question how we can change the current practice of contracts currently being the sole territory of contractors (i.e. they send us their standard contract on a “take it or leave it” basis – all we can negotiate are the fee rates and one or two extras) to a more balanced practice, in which experts are more pro-active and less passive about their contracts. To this end we will establish a working group made up of TACU members (volunteers!).

### Code of professional practice

We also intend to set up a working group of members to draw up a professional code of practice, initially for experts and later for contractors. In the absence of professional qualifications for people in our industry (if only because experts come from so many different disciplines), we believe that it would be valuable to establish some core principles and standards that we would all want to follow. Given the problems with the many less-than-reputable contractors, we feel something similar for them would be beneficial for all actors – experts, donors and beneficiaries.

### Rating contractors

Many experts have complained to us about the poor behavior of far too many contractors and there are also a number of LinkedIn discussions on the same topic. Apart from our proposals to rate contractors (praise the good ones as well as list the not-so-good ones) we want to explore whether we can devise a fair mechanism for reporting serious offenders to EuropeAid or, indeed, to whichever donor was funding the project that led to the complaints. We have already asked Tony Barry to lead the preparation of this activity with 3-4 other volunteers.

### Fee rate development information

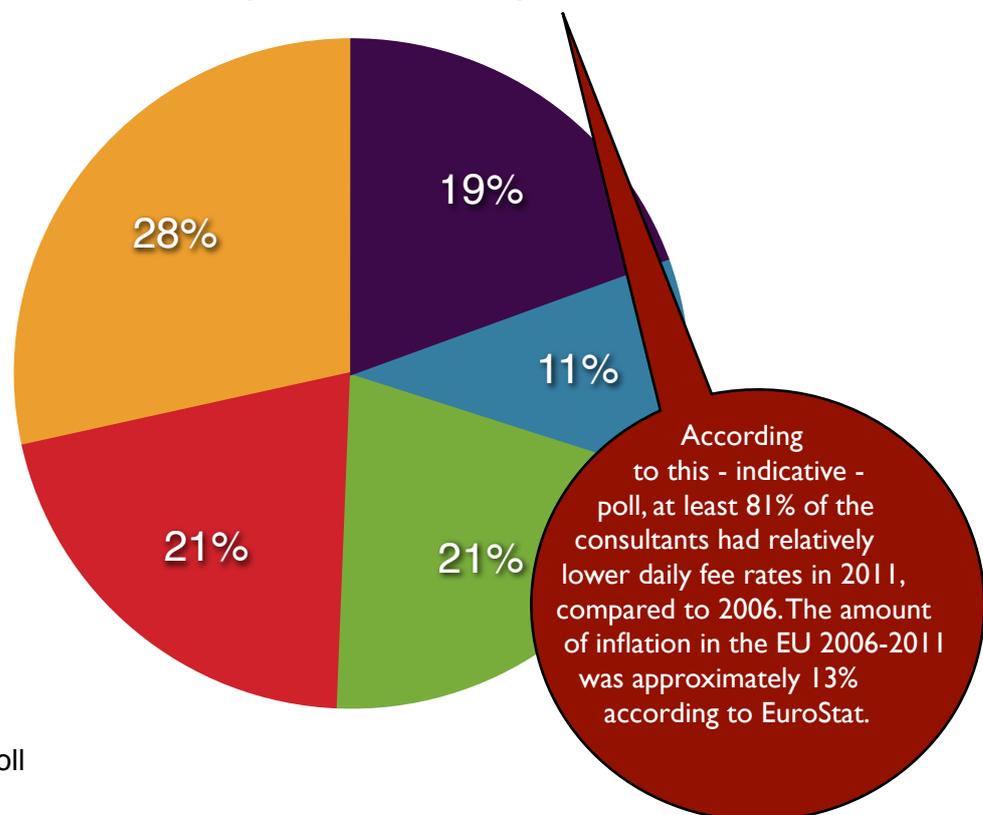
There is a lot of confusion about fee rates, but there appears to be a general impression that they have not kept up with inflation and may actually have been cut in nominal as well as real terms. We have been conducting an initial survey on this matter on LinkedIn and intend to do more work on getting hard information in the coming year. This will also imply:

- Analyses of what is being paid by other donors with a more public policy in this regard, such as UN, AUSAID, GIZ etc.; we plan to convert these ‘packages’ to daily fee rates.
- Information on what the EU pays for its own staff when on mission, again converted into daily fee rates

- Information on the gross daily fee rates in the financing of TA contracts by donors, in particular EuropeAid as market leader.
- Establishing the gross margins taken by contractors in TA contracts and comparison with other parts of the consultancy market on relevant aspects of this margin (for instance exclusion of training activities in the rates)

- Decrease with more than 10%
- Decrease between 1% and 10%
- The same as in 2006
- Increase between 1% and 10%
- Increase with more than 10%

**Daily fee rate development: 2011 compared with 2006**



N=541 - LinkedIn poll

### Other donors

EuropeAid continues to be our main focus of attention among the donor community because it is the largest provider of development cooperation projects and because there are more complaints about the EuropeAid system than all the other donors combined – unless we haven't been hearing about the others. Nonetheless, most experts work for a range of donors and we are keen to expand our interests to deal with issues that arise with the other major players.

### Engaging with the European Parliament

We believe that the time has now come for us to make contact with the European Parliament to ensure that TACU can become an important stakeholder in its own deliberations regarding the EU's external development cooperation programs. There is a parliamentary committee that deals with these issues and we will contact the chairperson after the summer holidays in order to seek an initial meeting.

## 8. Membership issues

### Advisory Board

We would like to organize the election of the Advisory Board as soon as possible. We therefore plan to call for candidates in September and to organize the election in October.

### Working groups

As mentioned above, we would like to establish three Working Groups:

- Development of a contract template
- Development of a Code of Conduct
- Ranking contractors

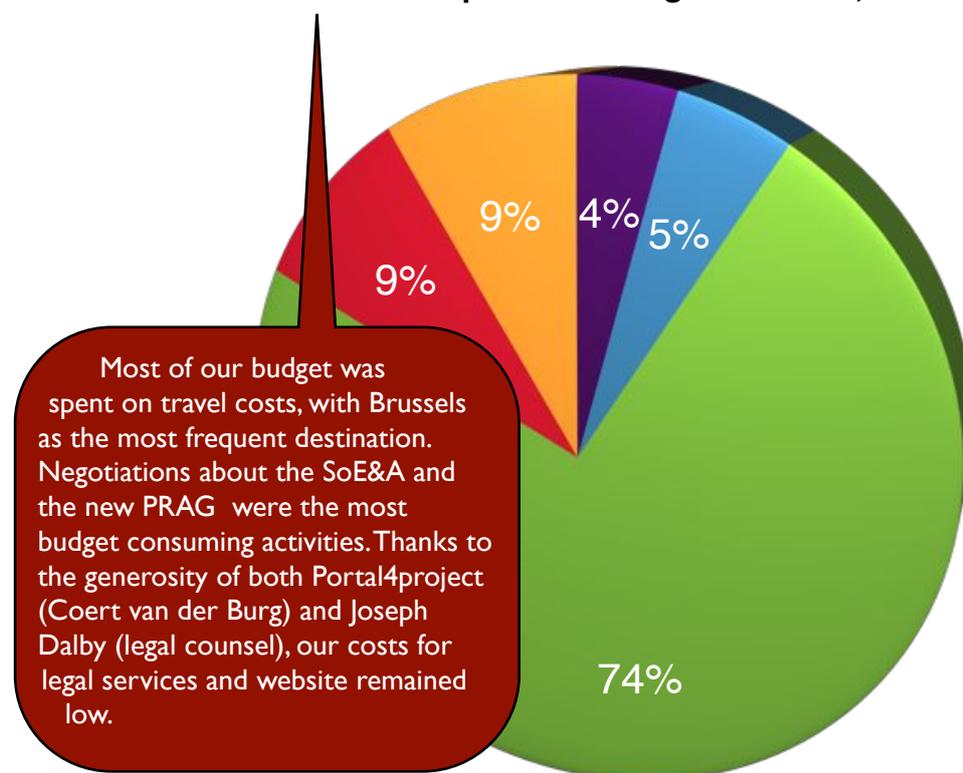
We propose that each WG has 5 members, where possible one of us will support a WG. Please let us know if you would like to take part.

### Members

Nobody knows how many independent experts there are working in our business, but well-established consultancy firms typically have databases of 15,000 to 20,000 experts. We think, therefore, the total number is probably around 40,000 to 50,000. After one year TACU has 151 members.

- Admin + banking
- Notary
- Travel exp.
- Legal
- Website

How did we spend the budget of ± € 22,000



This is disappointing for two reasons. First, for one reason or another, the overwhelming majority of experts do not wish to pay for TACU. We know that our newsletters, which we send to more than 1,000 experts, are forwarded by recipients to their own networks, so we believe that there are several thousand experts, at least, who know about us and what we do, so it is not now a matter of not having heard about us. It is a matter of choice.

We also notice a tendency that potential members would like to join once they have a problem. This is a bit like: "My house is on fire, can I get it insured?" Another noticeable tendency is that most experts see the need for giving voice to experts' interests and offering them protection. But becoming a paying member seems to be a hurdle for many. It may seem a confrontational observation but opportunistic behavior seems not to be a rare phenomenon in our profession! However, truly opportunistic behavior would most certainly lead to the conclusion that investing in a strong interest organization with excellent individual services is profitable for every individual in our field; it may take a year, it may take two years, but TACU is a profitable 'investment': we would like to get that message across...

Second, membership subscriptions are our only source of revenue and we cannot provide the full range of services we want without additional financial resources. (We will circulate our financial report in December. For now, most of the revenue has been used for the legal establishment of TACU, web site development and hosting, travel to meetings with EuropeAid in Brussels and the Court of Auditors in Luxembourg. Other expenses have included temporary administrative assistance, translations into French, and some very basic fees to our Legal Adviser.)

Thus, a major challenge for the coming year is to significantly increase membership numbers: we really need you in this! Please keep in mind that in the longer run TACU will not be sustainable if we don't have the revenues to support our activities.

### Finally...

We just want to remind you that we do TACU work on a voluntary and part-time basis. As a result we are not always as prompt at responding to messages as we would like – we simply aren't available from time to time. This also explains why we don't send out newsletters on a frequent, regular basis. We send them when we have something to tell you or to ask you. Thank you for your understanding.

We wish you all every success in the continuing battle to get properly rewarding and promptly paid assignments!



TA Consultants

TACU strives for  
Partnership in  
Technical Assistance

Donors

Contractors